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FEDERAL COMMUNICATIONS COMMISSION  
OFFICE OF THE SECRETARY

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February 22, 2001

**Ex Parte**

Ms. Magalie Roman Salas  
Secretary  
Federal Communications Commission  
445 12<sup>th</sup> St., S.W. - Portals  
Washington, DC 20554

**ORIGINAL**

RE: Application by Verizon New England Inc., et al., for Authorization To Provide In-Region,  
InterLATA Services in Massachusetts, Docket No. 01-9

Dear Ms. Salas:

At the request of CCB staff, Verizon participated in a conference call today regarding remote terminal collocation and subloop unbundling. CCB representatives included S. Cameron, E. Einhorn, K. Farroba, and C. Libertelli. Representing Verizon were C. Kiederer, D. Epps, A. Trinchese, J. White and me. We discussed issues raised by commenting parties in the above proceeding regarding Verizon's remote terminal collocation and sub-loop unbundling offerings. Positions presented are consistent with what Verizon has put on the record in the above proceeding. The attached was provided at the request of staff.

Please let me know if you have any questions. The twenty-page limit does not apply as set forth in DA 01-106.

Sincerely,



Attachment

cc: S. Cameron  
E. Einhorn  
K. Farroba  
C. Libertelli  
S. Pie

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February 21, 2001

Phase III-B Clarification Order, D.T.E. 98-57-Phase III

To All Parties to D.T.E. 98-57-Phase III:

On January 29, 2001, Verizon Massachusetts ("Verizon") filed with the Department of Telecommunications and Energy ("Department") a motion for clarification of three aspects of the Department's Phase III-A Reconsideration Order<sup>1</sup> (Verizon Motion at 1). Namely, Verizon seeks clarification about whether: (a) it may charge competitive local exchange carriers ("CLECs") that request Verizon to condition copper distribution facilities that meet Carrier Serving Area ("CSA") standards; (b) the Department intended to impose line splitting obligations beyond those set forth in relevant Federal Communications Commission ("FCC") decisions; and (c) the Department modified an earlier "plug and play" ruling (*id.*). On February 1, 2001, the Department sought comments only on Verizon's first issue, *i.e.*, conditioning charges, after determining that it required no additional information to rule on the last two issues. No party submitted comments on Verizon's conditioning charge clarification request.

As an initial matter, we note that clarification of previously issued Orders may be granted when an Order is silent as to the disposition of a specific issue requiring determination, or when the Order contains language that is sufficiently ambiguous to leave doubt as to its meaning.<sup>2</sup> The Department grants Verizon's motion for clarification with respect to conditioning charges and line splitting but finds that Verizon's plug and play request does not meet our clarification standard of review.

In its clarification motion, Verizon argues that the Department relied on statements made by Covad Communications Company ("Covad") in rejecting Verizon's request to reconsider the Department's earlier ruling on loop conditioning and qualification charges (Verizon Motion at 2-3, *citing* Phase III-A Reconsideration Order at 36). Specifically, Verizon contends that the Department noted with support Covad's statement that if Verizon followed CSA standards,<sup>3</sup> it would not have deployed bridged tap in excess of a length that would affect xDSL service; thus, the Department concluded that in a fiber fed network, Verizon would not have to condition loops to support xDSL service and Verizon should not be permitted to recover its conditioning costs (*id.*). Verizon urges the Department to permit it to recover its conditioning costs if it provides a

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<sup>1</sup> D.T.E. 98-57-Phase III-A (January 8, 2001) ("Phase III-A Reconsideration Order").

<sup>2</sup> Phase III-A Reconsideration Order at 54 (citations omitted).

<sup>3</sup> According to Covad, the CSA standard requires Verizon to deploy no more than 2,500 feet in total bridged tap on each loop and no single bridged tap longer than 2,000 feet. *See* Phase III-A Reconsideration Order at 30 (further citations omitted).

CLEC with a CSA-compliant xDSL loop that the CLEC requests to be cleaned of all bridged tap, arguing that this clarification would be consistent with the Department's Phase III-A ruling (*id.*).

The Department grants this part of Verizon's motion and clarifies its loop conditioning rulings to permit Verizon to charge CLECs to remove bridged tap from CSA-compliant loops unless the CLEC can demonstrate to the Department that such an offered loop does not support any xDSL service (in which case such conditioning work will be performed by Verizon at no charge). The Department agrees with Verizon that its responsibility to requesting CLECs is to provide them with loops that can support xDSL service and that our Phase III record shows that xDSL service can be provided over CSA-compliant loops. The record is uncontroverted on this point.

In sum, Verizon is required to condition loops by removing load coils and excess bridged tap, which means 2,500 feet in total bridged tap on a single loop or a single bridged tap greater than 2,000 feet, for requesting CLECs free of charge. If a CLEC seeks to have bridged tap removed from a loop that meets CSA standards, Verizon may charge that CLEC its conditioning costs unless the CLEC can demonstrate to the Department that the loop cannot support xDSL service. The Department will consider the appropriate rates for such conditioning work in our continuing Phase III proceeding. During the interim, Verizon shall apply its proposed rates from Part M, Section 2.5.4, Page 9, of the tariff it filed with the Department in May 2000.

We grant Verizon's request to clarify our line splitting ruling. When the Department issued its Phase III-A Reconsideration Order, we did not have the benefit of a relevant FCC decision issued after January 8, 2000. On January 19, 2001, the FCC released a Reconsideration Order<sup>4</sup> of its Line Sharing Order.<sup>5</sup> Among other things, the Line Sharing Reconsideration Order affirms that incumbent local exchange carriers have an existing legal obligation to provide line splitting, and repeats language it used in its SWBT Texas Order<sup>6</sup> with respect to line splitting and UNE-Platform.<sup>7</sup> Verizon is correct that it was the Department's intention in its Phase III-A Reconsideration Order to require Verizon to provide line splitting in accordance with FCC Orders and rules (Verizon Motion at 4). The Department does not impose line splitting obligations on Verizon beyond those set forth in the FCC's SWBT Texas Order and its Line Sharing Reconsideration Order.

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<sup>4</sup> Deployment of Wireline Services Offering Advanced Telecommunications Capability and Implementation of the Local Competition Provisions of the Telecommunications Act of 1996, Third Report and Order on Reconsideration in CC Docket No. 98-147, Fourth Report and Order on Reconsideration in CC Docket No. 96-98, FCC 01-26 (rel. Jan. 19, 2001) (further citation omitted) ("Line Sharing Reconsideration Order").

<sup>5</sup> Deployment of Wireline Services Offering Advanced Telecommunications Capability and Implementation of the Local Competition Provisions of the Telecommunications Act of 1996, Third Report and Order in CC Docket No. 98-147, Fourth Report and Order in CC Docket No. 96-98, 14 FCC Rcd 20912 (rel. Dec. 9, 1999) ("Line Sharing Order").

<sup>6</sup> Application by SBC Communications Inc., Southwestern Bell Telephone Company, and Southwestern Bell Communications Services, Inc. d/b/a Southwestern Bell Long Distance Pursuant to Section 271 of the Telecommunications Act of 1996 to Provide In-Region, InterLATA Services in Texas, CC Docket No. 00-65, Memorandum Opinion and Order, FCC 00-238 (2000) ("SWBT Texas Order").

<sup>7</sup> See Line Sharing Reconsideration Order at ¶ 19, citing SWBT Texas Order at ¶ 325.

Finally, Verizon's request that the Department clarify a press release issued by a Phase III party concerning plug and play, and not our Order, clearly does not meet our clarification standard of review (id. at 5-8). To the best of our collective knowledge, the Department has never issued an Order to clarify press releases or other statements made to the press. Consequently, this part of Verizon's motion is denied. Our Phase III Orders are clear that while the Department will consider Verizon's plug and play proposal (together with a Verizon-proposed alternative to plug and play if Verizon chooses to file such a tariff), we must reach certain findings before we will require Verizon to permit unbundled packet switching.<sup>8</sup>

By Order of the Department,

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James Connelly, Chairman

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W. Robert Keating, Commissioner

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Paul B. Vasington, Commissioner

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Eugene J. Sullivan, Jr., Commissioner

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Deirdre K. Manning, Commissioner

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<sup>8</sup> See e.g., Phase III Order at 87-89.